

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

INVICTUS RESIDENTIAL POOLER  
TRUST 1A,

Plaintiff,

vs.

CYNTHIA J. ZIEMBA, et al.,

Defendants.

4:19-CV-3036

ORDER

This was a case seeking foreclosure on real property that, after a muddled trip through default judgment, resulted in an October 19, 2020 Judgment and Decree of Foreclosure and Order of Sale. [Filing 24](#). Pursuant to that order, the United States Marshals Service was to sell the property, report the sale to the Court, and deposit the proceeds of the sale into the Court's registry. [Filing 24 at 2](#). After that, what would generally happen in a case of this kind is that the plaintiff would file a motion to confirm the sale, and assuming a proper showing was made, the Court would enter another order confirming the sale, ordering the Marshal to issue a deed to the purchaser, and disbursing the funds to pay the plaintiff's costs, the Marshal's expenses, and the underlying debt. *See* [filing 24 at 2-3](#).

The Marshal has reported to the Court that the property at issue has been sold at auction, but has not deposited the proceeds of the sale into the Court's registry. Instead, the Clerk of the Court has been advised that the funds have already been made available to the plaintiff's counsel. That's a problem, because the sale hasn't actually been confirmed yet. It's also a problem because the Court can't pay the Marshal's costs without money to pay

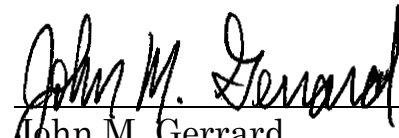
them. And it's simply not compliant with the Court's order and the Court's own obligations regarding the handling of funds. Accordingly,

IT IS ORDERED:

1. The United States Marshals Service for the District of Nebraska shall recover the proceeds of the sale and deposit them into the registry of the Court, as required by the Court's Judgment and Decree of Foreclosure and Order of Sale ([filing 24](#)).
2. The plaintiff's counsel shall facilitate recovery of the funds and their payment into the Court's registry, and neither the plaintiff nor any person acting on the plaintiff's behalf shall dissipate the funds pending further order of the Court.
3. The Clerk of the Court shall provide a copy of this order and a copy of [filing 24](#) to the United States Marshals Service.

Dated this 27th day of July, 2021.

BY THE COURT:

  
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John M. Gerrard  
United States District Judge